

This letter discusses sales of food through vending machines. See 35 ILCS 120/2-10. (This is a GIL.)

December 11, 2006

Dear Xxxxx:

This letter is in response to your letter dated August 24, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

If I placed a prepared sandwich vending machine in a place of business, what percentage of sales tax would I pay on the money taken out of that vendor?

If I placed a candy, chip, gum vending machine in a place of business, what percentage of sales tax would I pay on the money taken out of that vendor?

DEPARTMENT'S RESPONSE

Section 2-10 of the Retailers' Occupation Tax Act (35 ILCS 120/2-10) provides that, "[n]otwithstanding any other provisions of this Act, 'food for human consumption that is to be consumed off the premises where it is sold' includes all food sold through a vending machine, except soft drinks and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine." As a result, cold sandwiches sold from a vending machine are taxed at the low State rate of 1%. Candy, chips and gum sold from a vending machine are also taxed at the low State rate. Hot sandwiches sold from a vending machine are taxed at the high State rate of 6.25%.

If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you

wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
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